



Small Business

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FAR Case 2006-032

Small Business Size Rerepresentation

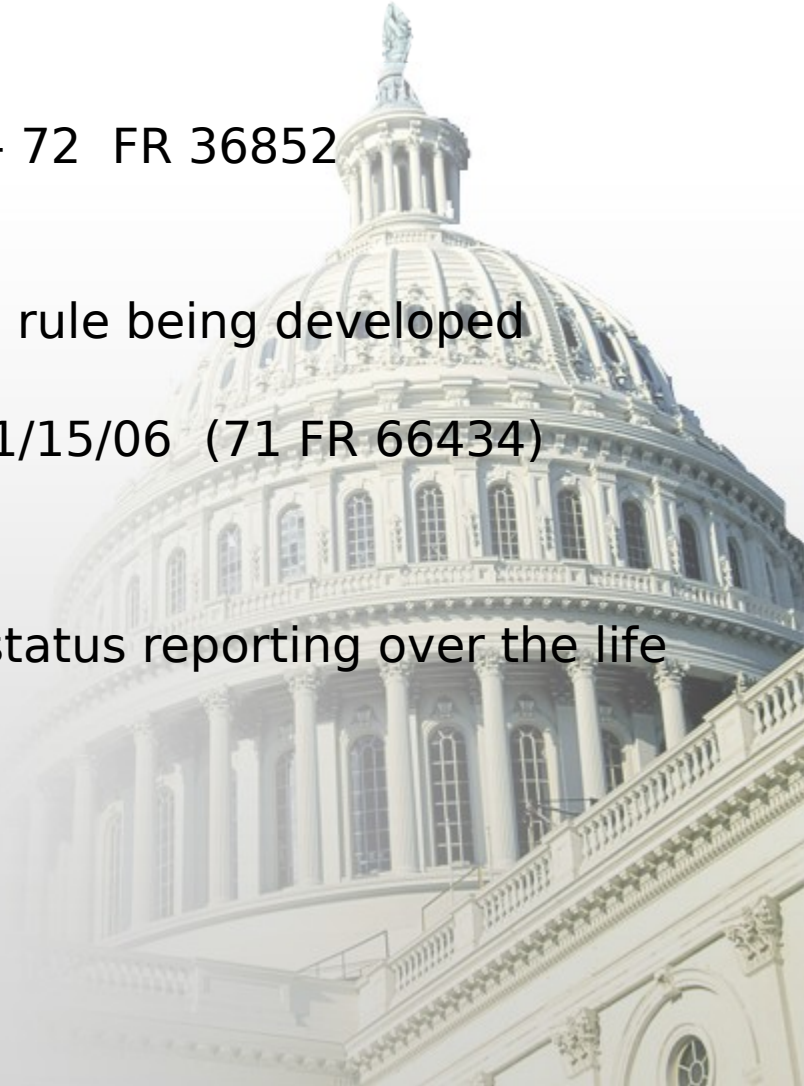
► Status:

- Interim rule published 7/5/2007 – 72 FR 36852
- Effective **6/30/2007**
- Public comments received – Final rule being developed

► Source: SBA final rule published 11/15/06 (71 FR 66434)

► Purpose:

- To improve the accuracy of size status reporting over the life of certain prime contracts





FAR Case 2006-032

Small Business Size Rerepresentation

► Synopsis:

- Requires a concern that represented it was small at time of award to rerepresent its status -

Within 60 to 120 days prior to the end of the fifth year of a long-term contract and within 60 to 120 days prior to the exercise date in the contract for any option thereafter

Within 30 days after a merger or acquisition that does not require novation, or within 30 days after modification of the contract to include 52.219-28, if the merger or acquisition occurred prior to inclusion of the clause in the contract

Within 30 days after execution of a novation agreement, or within 30 days after modification of the contract to include 52.219-28, if the novation agreement was executed prior to inclusion of the clause in the contract



FAR Case 2006-032

Small Business Size Rerepresentation

► Synopsis (con't):

- Requires databases be revised to reflect the rerepresented size status from that point forward
- If small rerepresents that it is now other than small, from that point forward, the agency may no longer include the value of options exercised or orders issued against the contract in its small business prime contracting goal achievements
- Long-term contract is any contract more than 5 years in duration
- Required to rerepresent whether or not there is a change in size status
- Other than small permitted, but not required, to rerepresent

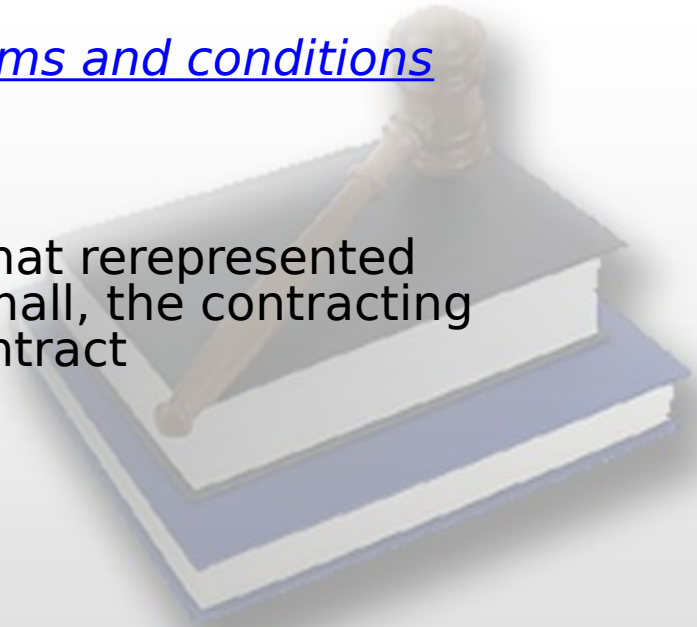


FAR Case 2006-032

Small Business Size Rerepresentation

► Important to note:

- Rerepresentation *does not change the terms and conditions* of the contract
- This rule applies only to prime contracts
- When as a result of a protest, a concern that rerepresented itself as small is found to be other than small, the contracting officer is *not* required to terminate the contract





FAR Case 2006-032

Small Business Size Rerepresentation

► Applicability:

- Applies to solicitations issued and contracts awarded on or after June 30, 2007
- Also applies to contracts awarded prior to June 30, 2007
 - Must modify all long-term contracts awarded to small businesses prior to June 30, 2007 to include 52.219-28
 - Must modify other contracts (those that are not long-term contracts) awarded to small businesses prior to June 30, 2007 to include 52.219-28, at the time that you are otherwise exercising an option



FAR Case 2006-034

Socioeconomic Program Parity

► Status:

- Proposed rule published 3/10/2008 – 73 FR 12699
- Closing date for public comments – 5/9/2008

► Source: SBA initiated

- ### ► Purpose: To ensure that the FAR reflects SBA's interpretation of the Small Business Act and SBA's interpretation of its regulations with regard to the relationship among the Small Business Programs



FAR Case 2006-034

Socioeconomic Program Parity

► Synopsis:

- There is no order of precedence among the 8(a), HUBZone or Service-disabled Veteran-owned (SDVO) small business programs
- If a requirement has been accepted by SBA under the 8(a) Program, it must remain in the 8(a) Program unless SBA agrees to its release
- For acquisitions exceeding \$100,000, the contracting officer:
 - Must consider making award under the 8(a), HUBZone or SDVO small business programs (either sole source or set-aside) before proceeding with a small business set-aside
 - After considering making award under those programs, a contracting officer may proceed with a small business set-aside, unless the criteria for setting the acquisition aside for HUBZone small businesses are met, in which case it must be a HUBZone set-aside



FAR Case 2006-034

Socioeconomic Program Parity

► Synopsis (con't):

- Acquisitions between \$3,000 and \$100,000
 - The contracting officer has discretionary authority to award to HUBZone SBs, 8(a) Program participants, or SDVOSBs
 - Unlike acquisitions over \$100,000, it is not mandatory that a contracting officer set the acquisition aside for HUBZone small businesses before setting it aside for other small businesses
- SBA believes progress in fulfilling the various small business goals is a factor to consider in making a decision as to which program to use for the acquisition



On the Horizon

2006-005 HUBZone Program Revisions

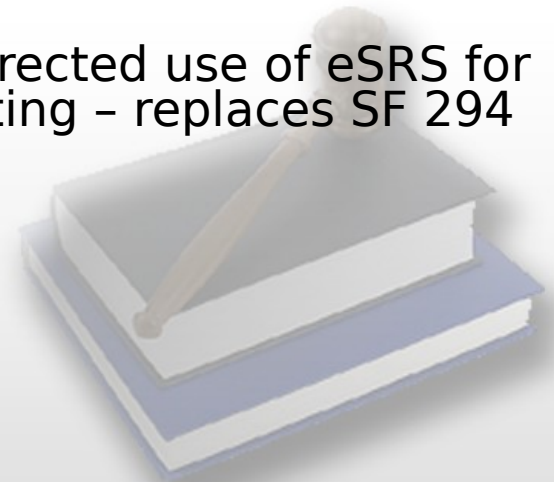
- ▶ Source: SBA
- ▶ Purpose: to implement in the FAR changes in SBA's HUBZone Program regulations resulting from the Small Business Reauthorization Act of 2000
- ▶ Changes in SBA regulation (intent to increase opportunities for qualified HUBZone concerns):
 - Requires that at least 35% of the employees that work on the contract live in a HUBZone
 - Increases percent of work that must be performed by a HUBZone concern to 50% for general and specialty construction, but permits subcontractors that are qualified HUBZone concerns to count toward the percentage
 - HUBZone concern must "certify" at time of offer and at time of award that it is HUBZone



On the Horizon

2005-040 Electronic Subcontracting Reporting System

- ▶ Source: OFPP/SBA
- ▶ Purpose: To implement in the FAR, OFPP directed use of eSRS for individual and summary subcontract reporting – replaces SF 294 and SF 295





FAR Small Business Team

- ▶ Established by OFPP on March 2, 2007
- ▶ Purpose:
 - Focus on small business issues
 - Provide greater consistency between the regulations and more seamless direction and guidance through concurrent SBA and FAR rule-making





FAR Small Business Team

- ▶ DoD team members
 - Debbie Tronic – OSD DARS (Team Chair)
 - Lee Renna – OSD OSBP
 - Mary Reynolds – AF OSBP
 - Paul Gardner – Army OSBP (Alternate for OSD OSBP)
 - Rachel Ballen – Army Material Command
 - Mary Seabolt – DCMA OSBP (Rotational)
- ▶ Civilian Agencies represented
 - DHS - NASA - GSA
 - SBA - DOE – Dept of Commerce
- ▶ OFPP Advisor





Government Property

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FAR Case 2004-025

Government Property

► Purpose:

- To simplify procedures, clarify language, and eliminate obsolete requirements related to the management and disposition of Government property in the possession of contractors.

► History:

- Proposed rule published 9/19/2005 – 70 FR 54878
- 287 Public comments received from 40 Respondents
- Final rule published 5/15/2007 – 72 FR 27364



FAR Case 2004-025 Government Property

► Background

- During the 1990's, the Department of Defense initiated a complete rewrite of FAR Part 45. The effort reflected the general consensus that adoption of more typically commercial business practices would not only attract more commercial firms to the marketplace but also result in significant savings of acquisition dollars.
- The legalities and complexities that characterize Government property management drew out differences between the Government and industry parties, resulting in suspension of most of the project. Only the rewrite of Subpart 45.6 was published as a final rule at the time.
- This rule completes the task of rewriting the rest of Part 45 and its associated clauses.



FAR Case 2004-025

Government Property

► Synopsis:

- The rewritten FAR Part 45 implements a policy that improves the management of Government property while fostering efficiency, flexibility, innovation and creativity by adopting property practices typically used in the commercial arena while, continuing to protect the Government's interest.
- The rule complements the use of current processes and technologies such as Enterprise Resource Planning, relational databases, unique item identification, radio frequency tags, bar-coding, and the general trend toward commercialization of components and equipment.
- The rule simplifies requirements on contractors by reducing the number of FAR clauses from nineteen clauses, to three overarching clauses.



FAR Case 2004-025 Government Property

► Synopsis (Con't):

- The rule deletes the current FAR text on facilities contracts and the associated clauses.
- The rule deletes the special tooling and special test equipment language and associated clauses.



FAR Case 2004-025

Government Property

► Issues:

- Title to government property
- Suitability for use of government property furnished in “as-is” condition
- Responsibility and liability
- Generating and maintaining records and reports of Government property.
- Disposal and abandonment of government property
- Contractor Plans and Property Management Systems

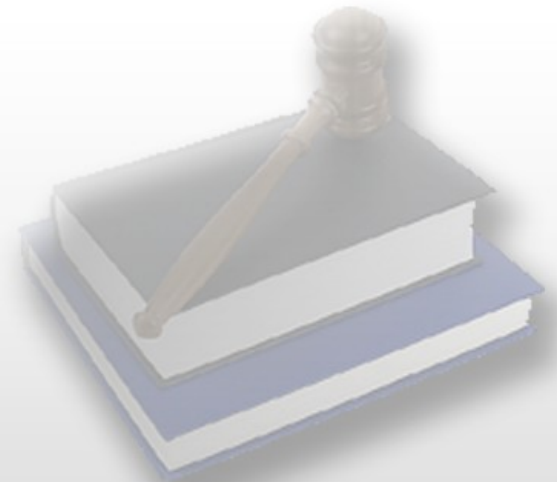
► Applicability:

- Applies to solicitations issued and contracts awarded on or after 6/14/2007



On the Horizon

- ▶ DFARS Part 245 rewrite





FAR Acquisition Implementation Team

▶ DoD team members

- Jeritta Parnell – OSD DARS (Team Chair)
- Felisha Hitt, Deputy, DCMA
- Eric Saindon, DCMA
- Lou Becker, NASA
- Patricia Letzler, DCAA
- Patrick M. Sullivan, HHS
- Ed Chambers, EPA
- Jerry Hanley, DOE
- Fronzetta Sutton, DOE
- Mark Gomersall, DoD (DARC Case Manager)

▶ Expert Advisors

- Tom Ruckdaschel, OSD
- Michael T. Showers, NASA
- John Kesler, DCMA
- Douglas N. Goetz, DAU

